

UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: MICHAEL HORGAN; TIM ALLEN; MICHAEL GARDINER;
TERRI McGILL
Serial No.: 08/908,994
Filed: 08/08/1997
Title: METHOD AND APPARATUS FOR SECURE COMMUNICATIONS
Group:
Examiner:
Docket No.: 36212.00006 (SYN5397.01A)

**Commissioner for Patents, USPTO
Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202**

**DECLARATION OF MICHAEL J. HORGAN IN SUPPORT OF RENEWED PETITION
TO ACCEPT DECLARATION FROM JOINT INVENTORS SIGNING ON BEHALF OF
AN INVENTOR WHO CANNOT BE REACHED
37 CFR 1.47(a)**

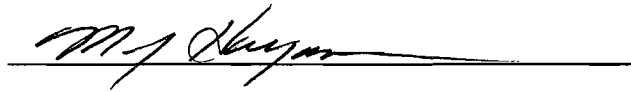
Dear Sir:

I, Michael J. Horgan, declare:

1. I am a named inventor of the above-identified U.S. patent application.
2. I am a former business partner of co-inventor Michael Gardiner.
3. I have personal knowledge of the following facts and would be competent to testify thereto if called as a witness
4. I provided the information regarding Michael Gardiner in Exhibit A to O'BANION & RITCHEY LLP via e-mail, which includes his SSN and documents showing that he was the CEO of ACL Datacom, Inc.
5. To the best of my knowledge, the information contained in Exhibit A is true and correct.
6. The name Michael Gardner on the patent application is incorrect. The correct name is Michael Gardiner.
7. The name of Michael Gardiner's wife is Vilma Gardiner.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 1-15-04

A handwritten signature in black ink, appearing to read "Michael J. Horgan", is written over a horizontal line.

Michael J. Horgan

John O'Banion

From: mikehorgan@msn.com
Sent: Tuesday, November 18, 2003 1:55 PM
To: John O'Banion; Jerry King
Cc: Mary Barber
Subject: Information on Michael Gardiner re Synectic Design, LLC

This is the information which we have been able to collect on Michael Gardiner.

Exhibits 1a and 1b: Wells Fargo Bank signature card indicating Mr. Gardiner's true name, title, business address, SSN, Hong Kong driver's license number, Passport number and home telephone number (Hong Kong, he has since moved).

Exhibit 2: Statement by Domestic Stock Corporation, State of California, indicating Mr. Gardiner's true name and his last business address in the United States.

Exhibits 3a, 3b and 3c: Articles of Incorporation for the State of California for ACL Datacom indicating Mr. Gardiner's true name and his last business address in the United States.

Exhibit 4: Statement by Domestic Stock Corporation, State of California, indicating Mr. Gardiner's true name and his last business addresses in the United States and Hong Kong.

Gardiner Information: A summary of the above information.

We are in the process of getting pictures of the burned-out shell of the Sunnyvale address and can try to confirm that ACL Electronics no longer occupies the Hong Kong address if that would be helpful. Please let me know what additional information I can provide.

Regards
Mike Horgan

11/18/2003

EXHIBIT A

Michael Gardiner

(No middle initial on any document that we have)

Last Hong Kong Business Address:

6/F Hale Weal Ind. Bldg.
22-28 Tai Chung Rd.
Tsuen Wan, New Territories, HK

Last United States Address:

(Building burned to the ground)

537 Weddell Drive
Sunnyvale, CA 94089

SSN:

565-31-9586

Hong Kong Drivers License Number:

XG471955(5)

Passport:

700832707

Home Phone Number - Hong Kong (disconnected)

011-852-2638-0950

EXHIBIT A

1. Account Selection

Checking

Basic Business Checking ☐ ATM Plan ☐ Branch Plan ☐ Active Business Checking
 Packaged Business Checking ☐ ATM Plan ☐ Branch Plan ☐ Attorney/Client Trust Fund
 Business Checking Interest Plan ☐ ATM Plan ☐ Branch Plan ☐ Other

Savings

☐ Business Savings ☐ Business CD ☐ Combined Balance Waiver
☐ Business Market Rate Account™ ☐ Expandable CD
☐ Other ☐ Special Purpose CD

2. Special Features for Your Deposit Account(s)

☐ Business Express Cards

Enjoy the convenience of 24-hour access to your accounts at over 1,800 Express ATMs throughout California with a Business Full Access or Limited Access Express Card. Receive the first three months on a trial basis without charge.

☐ ONE LOOK® Business Statement

Receive your business account information in one summarized statement to help you better manage your cash flow. Receive the first three months on a trial basis without charge.

☐ Overdraft Protection
 available from deposit
 accounts or lines of credit.

From Deposit Account(s)

To Account(s)

3. Business Information

Business Name: <u>ACL Datacom, Inc.</u>	
Business Location (Street/Suite) <u>2150 Douglas Blvd., Suite 100</u>	City, State, Zip <u>Roseville CA 95661</u>
Mailing Address (Street/Suite)	City, State, Zip
Business Phone <u>(916) 771-7000</u>	Phone number of primary contact (if different from business number) ()
Account Ownership <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Corporation/Association <input type="checkbox"/> Nonprofit Corporation/Association <input type="checkbox"/> Other	
Please describe your business, product/service: <u>Communications</u>	
Date Established <u>01-03-95</u>	Current Owner(s) Since Date
Number of Employees <u>15</u>	Annual Sales \$
Business License Number and Date (for Branch use only)	Fictitious Name Statement Date (for Branch use only)

4. Owner/Principal Information

Owner/Principal 1	Owner/Principal 2
Name & Title <u>MICHAEL GARDINER, CHAIRMAN & CEO</u>	Name & Title
Home Address (Number/Street/Apt. #) <u>66 MALEWEAL IND. BLDG., 22-28 TAICHUNG RD., TSUNEN WAW, NEW TERRITORIES, HK</u>	Home Address (Number/Street/Apt. #)

Refer to The Folio for specific instructions on how to set up a ONE LOOK Business Statement.

Required Documentation to Open a Business Account

Legal Classification:	Documentation:
Sole proprietorship	Current Business License (if business is in an area that does not issue licenses, please supply a Fictitious Name Statement)
General partnership	Partnership Agreement Business License
Limited partnership	Certificate of Ltd. Partnership Business License
Corporation	Corporate Resolution: Articles of Incorporation
Association/Organization	Association or Organization Resolution, or Business License, or Association By-Laws
Unincorporated non-profits	Must be opened as a Consumer Account

Complete this section if you are an owner/principal of the business.

Type Of Business: Sole proprietorship Owner/Principal: Sole proprietor

EXHIBIT A

City	State	Zip	City	State	Zip
Percent of Ownership %	Social Security Number		Percent of Ownership %	Social Security Number	
100	565 - 31 - 9586				
Driver's License Number & State			Driver's License Number & State		
HONG KONG XG471944 (S)					
Other ID (State ID, Passport or Major Credit Card)			Other ID (State ID, Passport or Major Credit Card)		
PASSPORT 700832707					
Home Phone Number			Home Phone Number		
(011) 852-2638-0950					
<input checked="" type="checkbox"/> Owner/Principal 2			<input checked="" type="checkbox"/> Owner/Principal 4		
Name & Title			Name & Title		
Home Address (Number/Street/Apt. #)			Home Address (Number/Street/Apt. #)		
City	State	Zip	City	State	Zip
Percent of Ownership %	Social Security Number		Percent of Ownership %	Social Security Number	
Driver's License Number & State			Driver's License Number & State		
Other ID (State ID, Passport or Major Credit Card)			Other ID (State ID, Passport or Major Credit Card)		
Home Phone Number			Home Phone Number		
Branch use only					
<input checked="" type="checkbox"/> Owner/Principal 1 ChexSystems <input type="checkbox"/> Record <input type="checkbox"/> No Record		<input checked="" type="checkbox"/> Owner/Principal 2 ChexSystems <input type="checkbox"/> Record <input type="checkbox"/> No Record		<input checked="" type="checkbox"/> Owner/Principal 3 ChexSystems <input type="checkbox"/> Record <input type="checkbox"/> No Record	
<input checked="" type="checkbox"/> Owner/Principal 4 ChexSystems <input type="checkbox"/> Record <input type="checkbox"/> No Record					
Reference Number provided by Branch				<input type="checkbox"/> Pass <input type="checkbox"/> No Pass	
Connection or qualifying existing account number:				By:	

PLEASE COMPLETE THE REVERSE SIDE

General partnership	All partners
Limited partnership	General partners
Corporation	Corporate officers with an ownership interest in the business
Association/ Organization	Responsible officers

For Branch Use Only
Please be sure to complete the Reference Number/qualifying existing account number.

Mailing Instructions for Branch:

First complete the reverse side of this card, then determine where to mail.

If this account is a...

☒ Retail Checking or Market Rate Account

☒ Wholesale Demand Deposit Account (account begins with a 4)

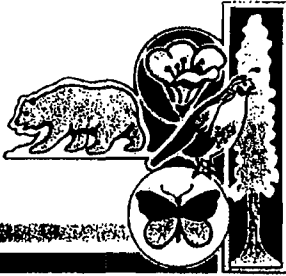
Then send this card to...

☒ Payment Authorization
North - MAC 0186-041
South - MAC 2001-056

☒ Wholesale Accounts Service Center
MAC 0106-066

EXHIBIT A

1919616



State of California

SECRETARY OF STATE'S OFFICE

CORPORATION DIVISION

I, *TONY MILLER*, Acting Secretary of State of the State of California, hereby certify:

That the annexed transcript has been compared with the corporate record on file in this office, of which it purports to be a copy, and that same is full, true and correct.

IN WITNESS WHEREOF, I execute
this certificate and affix the Great
Seal of the State of California this

JAN 03 1995



Tony Miller
Acting Secretary of State

EXHIBIT A

1919616

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

DEC 3 0 1994

TONY MILLER, Acting Secretary State

ARTICLES OF INCORPORATION
OF
ACL DataCom Inc.

The undersigned Incorporator, for the purpose of forming a corporation under the General Corporation Law of the State of California, hereby certifies:

FIRST: NAME

The name of this Corporation is ACL DataCom Inc.

SECOND: PURPOSE

The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business, or the practice of a profession permitted to be incorporated by the California Corporations Code.

THIRD: AGENT FOR SERVICE OF PROCESS

The name, and complete address in this state, of the Corporation's initial agent for service of process is: MICHAEL J. MORENO, 537 Weddell Drive, Sunnyvale, California 94089.

FOURTH: STOCK

This Corporation is authorized to issue only one class of shares, which shall be designated "common" shares. The total number of such shares authorized to be issued is ONE HUNDRED THOUSAND (100,000) SHARES.

EXHIBIT A

FIFTH: LIMITATION ON PERSONAL LIABILITY

The liability of the directors of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

SIXTH: ADDITIONAL RIGHTS OF INDEMNIFICATION

This Corporation is authorized to indemnify its agents to the fullest extent permissible under California Law. For purposes of this provision, the term "agent" has the meaning set forth from time to time in Section 317 of the California Corporations Code.

SEVENTH: SHAREHOLDER VOTING RIGHTS

Each common share shall have one vote on all matters on which shareholders are entitled to vote under the California General Corporation Law and/or these Articles.

IN WITNESS WHEREOF, the undersigned has executed these Articles Of Incorporation on December 21, 1994.



Michael Gardiner,
Incorporator

I HEREBY DECLARE that I am the person who executed the foregoing Articles Of Incorporation, which execution is my act and deed.



Michael Gardiner



State of California

Bill Jones
Secretary of State

P.O. Box 94089
Sacramento, CA 95844-2509
Phone (916) 657-6557

STATEMENT BY DOMESTIC STOCK CORPORATION

THIS STATEMENT MUST BE FILED WITH CALIFORNIA SECRETARY OF STATE (SEC. 1502, CORPORATIONS CODE)

A \$10 FILING FEE MUST ACCOMPANY THIS STATEMENT

WHEN COMPLETING FORM, PLEASE USE BLACK TYPEWRITER PENSION OR PRINT IN BLACK INK

IMPORTANT

DO NOT ALTER PREPRINTED NAME. IF ITEM 1 IS BLANK, PLEASE ENTER CORPORATE NAME AND NUMBER

1. C1919616 DUE DATE 12-31-98

ACL DATACOM, INC.
537 WEDDELL DRIVE
SUNNYVALE, CA 94089

If There Has Been No Change in Any Of The Information On File, Complete Item 1a Only
Please Indicate on return envelope if no change statement is enclosed.

DO NOT MARK IN THIS SPACE

THE CALIFORNIA CORPORATION NAMED HEREIN MAKES THE FOLLOWING STATEMENT:

1A. I DECLARE THERE HAS BEEN NO CHANGE IN THE INFORMATION CONTAINED IN THE LAST STATEMENT OF THE CORPORATION WHICH IS ON FILE IN THE SECRETARY OF STATE'S OFFICE DOES NOT APPLY ON INITIAL FILING.



(PRINT NAME) TYPE OR PRINT NAME OF SIGNING OFFICER OR AGENT

SIGNATURE

TITLE

DATE

2. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE 537 Weddell Drive	ROOM NO.	3A. CITY AND STATE Sunnyvale, CA	3B. ZIP CODE 94089
3. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA (IF ANY) (same as #2 above)	ROOM NO.	3A. CITY CA	3B. ZIP CODE
4. MAILING ADDRESS (same as #2 above)	ROOM NO.	4A. CITY AND STATE	4B. ZIP CODE

THE NAMES OF THE FOLLOWING OFFICERS ARE: (Must have one or more officers. Do Not Add or Omit Officers. Please Indicate, However, You May Add A Title Appropriate For Your Corporation)

5. CHIEF EXECUTIVE OFFICER MICHAEL GARDINER	5A. STREET ADDRESS (DO NOT USE P.O. BOX) 22-28 Tai Chung Rd., 6/F Tsuen Wan, NT, Hong Kong	5B. CITY AND STATE	5C. ZIP CODE
6. SECRETARY MICHAEL GARDINER	6A. STREET ADDRESS (DO NOT USE P.O. BOX) SAME AS ABOVE	6B. CITY AND STATE	6C. ZIP CODE
7. CHIEF FINANCIAL OFFICER MICHAEL GARDINER	7A. STREET ADDRESS (DO NOT USE P.O. BOX) SAME AS ABOVE	7B. CITY AND STATE	7C. ZIP CODE

DIRECTORS, INCLUDING DIRECTORS WHO ARE ALSO OFFICERS (Must have one or more directors (Chap. 5, Sec. 5014, Corporations Code). If no directors are listed, the corporation will be rejected)

8. NAME Michael Gardiner	8A. STREET ADDRESS (DO NOT USE P.O. BOX) 22-28 Tai Chung Rd., 6/F, Tsuen Wan, NT, Hong Kong	8B. CITY AND STATE	8C. ZIP CODE
9. NAME	9A. STREET ADDRESS (DO NOT USE P.O. BOX)	9B. CITY AND STATE	9C. ZIP CODE
10. NAME	10A. STREET ADDRESS (DO NOT USE P.O. BOX)	10B. CITY AND STATE	10C. ZIP CODE

11. THE NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

DESIGNATED AGENT FOR SERVICE OF PROCESS: Agent for service of process must be a person who is a resident of California, or the agent may be another corporation which has filed a certificate pursuant to Section 1505, California Corporations Code.

12. NAME
Michael Gardiner

13. CALIFORNIA STREET ADDRESS IF AGENT IS AN INDIVIDUAL (do not use P.O. box) (Do not include address if agent is a corporation that has filed a certificate pursuant to Section 1505 Corporations Code)
537 Weddell Drive, Sunnyvale, CA 94089

DESCRIBE TYPE OF BUSINESS OF THE CORPORATION NAMED IN ITEM 1.

14. TYPE OF BUSINESS
Communications Products

15. I DECLARE THAT I HAVE EXAMINED THIS STATEMENT AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT IS TRUE, CORRECT AND COMPLETE.

MICHAEL GARDINER

TYPE OR PRINT NAME OF SIGNING OFFICER OR AGENT

ORIGINAL SIGNATURE

TITLE

DATE

8/27/98

EXHIBIT A

Dana Reeder

From: mikehorgan@msn.com
Sent: Tuesday, December 02, 2003 11:50 AM
To: Dana Reeder
Subject: Vilma Gardiner

We are still trying to get Mr. Gardiner's home phone number. Perhaps the "Contact PH. (702) 355-3303" listed below is what we are looking for. You might try it just to see who answers.

We will keep trying until we hear from you.

Thanks
Mike Horgan

<http://www.lasvegasrealtor.com/site/memberSearch.asp?search=true&305=2092874201966s87f3>

Vilma Gardiner - gardinervilma@aol.com
RE/MAX Advantage
8548 W Lake Mead Blvd
Las Vegas , NV 89128
Contact PH. (702) 355-3303
Office PH. (702) 228-3200
FAX. (702) 228-3201